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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,503	08/04/2006	Hajime Ishii	H&C-5244	7213

7590 07/16/2008  
Mattingly Stanger & Malur  
Suite 370  
1800 Diagonal Road  
Alexandria, VA 22314

EXAMINER
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BLACK, MELISSA ANN

ART UNIT	PAPER NUMBER
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3612

MAIL DATE	DELIVERY MODE
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07/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,503	<b>Applicant(s)</b> ISHII ET AL.	
	<b>Examiner</b> MELISSA A. BLACK	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This office action is in response to Amendments and Remarks filed March 3, 2008, Claims 1-5 are pending in the application and rejected as set forth below.

#### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11100864 to Tanaka Hisao in view of US Pat # 6,502,896 to Nakata et al.

Re Claim 1, Hisao discloses a construction machine comprised of an automotive vehicular lower structure, and an upper revolving structure rotatably mounted on said vehicular lower structure and having a cab built on a frame and covering lower side of said cab with a side cover; said cab being constituted by a hollow cab box having five vertically extending pillars including a left front pillar (25), a right front pillar (not shown), a left center pillar (27), a left rear pillar (26) and a right rear pillar (not shown), and five side sections between said pillars including a front side section, a left front side section, a left rear side section, right side section and a rear side section, and a door openably or closeably fitted between said left front pillar and said left center pillar (See Figure 3), characterized in that: said door is a folding type door (32, 34) pivotally (36) supported on said left center pillar (27) of said cab box and constituted by two flexibly connected door panels (32, 34); said folding type door being located substantially in the same vertical plane as said side cover (See Figure 1); said left rear side section being provided with a holder member (40) for retaining said folding type door in an open door position when said folding type door is opened; and said folding type door being provided with a catch member

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(41) to be attachably or detachably engaged with said holder member (40) on said left rear side section of said cab box when said folding type door is in an open door position. Re Claim 2, Hisao discloses the construction machine, wherein said left rear side section of said cab box is formed in a convex arcuate shape (See Figure 1) from said left center pillar (27) to said left rear pillar (26), and said folding type door is folded back along said left rear side section of said cab box when opened (See Figure 1). Re Claim 5, Hisao discloses the left rear pillar of said cab is located at a position behind an operator's seat within said cab (See Figure 1).

Re Claims 1 and 4, as discussed above Hisao discloses one holder and one catch on the second door panel, but fails to disclose the use of a catch and holder for use on the first door panel.

Nakata et al discloses the use of a catch and holder (36 and 41) on the first door panel (32).

It would have been obvious to one with ordinary skill in the art to use the catch and holder on the first door panel as taught by Nakata et al on the device of Nisao in order to prevent the first folding door panels from rattling off the left rear side section of the cab box and make the panel follow along with the curve of the side section. Furthermore, it is a mere duplication of parts and involves only routine skill in the art.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11100864 to Tanaka Hisao as modified by US Pat # 6,502,896 to Nakata et al in view of US Pat # 6,669,272 to Ayabe et al.

Hisao as modified fails to disclose the use of a stretchable protective cover to cover the gap between the two door panels of the folding door type.

Ayabe et al discloses the use of a stretchable protective cover to cover the gap between the two door panels of the folding door type (27, Figure 10(a)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cover member as taught by Ayabe et al on the device of Hisao in order to protect the inside of the cab from the elements, and prevent objects from being pinched in-between the panels of the folding type door.

### ***Response to Arguments***

5. Applicant's arguments filed March 3, 2008 have been fully considered but they are not persuasive. Hisao teaches the use of preventing rattling of the door members of the two panel door, and it would have been obvious to one with ordinary skill in the art that if it is known to have a latching mechanism on the second panel as disclosed by Hisao, and the door panels are still rattling it would have been obvious to add a second latch mechanism on the first panel to stop the rattling for it is a mere duplication of part and involves only routine skill in the art. For adding the second latching mechanism would warrant an expected outcome, which is the prevention of rattling of the door panels. Furthermore, since Nakata et al teaches only one panel and a latching mechanism on that one panel preventing rattling of that panel, it would be obvious to replace the first panel of Hisao with the first panel of Nakata et al in order to prevent rattling and vibrations of that first panel. Therefore the rejection still stands.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat # 6,471,260 discloses a simple spring catch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/  
Primary Examiner, Art Unit 3612

/M. A. B./  
Examiner, Art Unit 3612